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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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OFFICE OF THE SECRETARY

In the Matters of)
)
Implementation of the)
Telecommunications Act of 1996)
)
Telecommunications Carriers' Use)
of Customer Proprietary Network)
Information and Other)
Customer Information)
)
Implementation of the Local Competition)
Provisions of the Telecommunications Act)
of 1996)
)
Provision of Directory Listing Information)
under the Telecommunications Act of 1934,)
As Amended)
)

CC Docket No. 96-115

CC Docket No. 96-98

CC Docket No. 99-273

OPPOSITION OF AT&T CORP.

Pursuant to Section 1.429 of the Commission's Rules, 47 C.F.R. § 1.429,
AT&T Corp. ("AT&T") hereby submits its opposition to SBC Communications, Inc.'s
("SBC") October 27, 1999 petition for reconsideration ("Petition") of the Commission's
SLI Order.¹

¹ Third Report and Order in CC Docket No. 96-115, Second Order on
Reconsideration of the Second Report and Order in CC Docket No. 96-98, and
Notice of Proposed Rulemaking in CC Docket No. 99-273, FCC 99-227 (released
September 9, 1999) ("SLI Order").

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AT&T opposes the SBC Petition in two respects: SBC attempts to escape its statutory duty to permit competing providers to have "nondiscriminatory access"² to its directory assistance ("DA") data by imposing delays on those carriers' requests whenever SBC declares unilaterally that its internal systems are "overburdened." In addition, the Petition seeks to nullify both § 251(b)(3) and the Commission's repeated rulings interpreting that section by arguing that it need not permit competing carriers to obtain access to its DA database, except on the terms permitted by § 251(c)(3)'s unbundling requirements. Both of these contentions are meritless and should be denied.

First, the Petition argues that the Commission should permit SBC to delay its response to competitors' attempts to obtain its DA data whenever SBC claims -- based solely on its own, standardless evaluation -- that it is faced with "multiple and conflicting requests" that could "overburden" its internal systems.³ The Commission has repeatedly held, however, that § 251(b)(3)'s nondiscrimination requirement "means that providing LECs must offer access equal to that which they provide to themselves."⁴ The authority SBC requests would present it with virtually unlimited opportunities to slow-roll its competitors' DA data requests by asserting that it is "overburdened," thereby denying

² 47 U.S.C. § 251(b)(3).

³ Petition, p. 3 (internal quotations omitted).

⁴ SLI Order, ¶ 128 (citing Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Second Report and Order, 11 FCC Rcd 19392, ¶ 100-06 (1996) ("Second Local Competition Order")); see also id., ¶ 152 ("[S]ection 251(b)(3) prohibits providing LECs from providing directory assistance database information in a manner that is inferior to that which they supply to themselves.").

those carriers access to those data on nondiscriminatory terms. Moreover, such a rule would give SBC powerful new incentives (in addition to those it already possesses) to understaff and under-equip the parts of its operations dedicated to fulfilling competitors' DA data requests, since any harm caused by delaying provisioning for competing carriers would benefit SBC's own operations.

Although the Commission stated in its discussion of § 222 that it "decline[d] at this time to require carriers to modify their internal systems" so they could meet the SLI Order's requirements for timely delivery of subscriber list information ("SLI") to directory publishers,⁵ the order did not permit LECs to escape their nondiscrimination obligations as to competing carriers' requests for DA data pursuant to § 251(b)(3). This is plainly the correct result. While customers understand that published directories (which are based on SLI) are updated and re-published only on an occasional basis, they expect and demand that DA information be much more current.⁶ Permitting a carrier to delay a directory publishers' request for SLI due to an inability to respond to multiple requests is thus far less likely to affect competition than would similar delays in provisioning DA data to a competing carrier.

⁵ SLI Order, ¶ 69. The order provides that disputes concerning the timeliness of responses to requests for SLI will be resolved on a case-by-case basis, with the burden "on the carrier to show that its internal systems cannot accommodate the directory publisher's requests." Id.

⁶ For example, in a January 6th article in the Wall Street Journal, an author complains that a Bell Atlantic DA operator could not find a listing for his new, Bell Atlantic-provided number despite the fact that "I've had service for six days already." Allan Chernoff, The Prisoner Of Bell Atlantic, Wall St. Journal, January 6, 2000, at A20.

Second, SBC argues that that carriers' access to DA data pursuant to § 251(b)(3) is somehow constrained by the "necessary" and "impair" standards applicable to UNEs pursuant to § 251(d)(2).⁷ This aspect of the Petition is largely incoherent, because SBC fails to explain (much less to justify) this contention, and fails to state what relief the Petition seeks. The Commission should unequivocally reject SBC's attempt to conflate § 251(b)(3) and the Act's UNE-related provisions. The UNE Remand Order makes clear that its findings are in no way inconsistent with those of the SLI Order.

The Petition argues that § 251(b)(3) is somehow limited to "dialing parity," and that the section (in some manner SBC does not, and presumably cannot, adequately explain) requires nondiscriminatory access to "directory assistance" merely "to ensure connectivity between LECs,"⁸ rather than permitting competitors to obtain DA data. SBC then asserts that § 251(c)(3)'s unbundling provisions are the only portions of the Act that potentially require it to permit other carriers to obtain its DA data. But these claims cannot be reconciled with the plain language of the statute. While § 251(b)(3) is captioned "dialing parity," that caption is, of course, not dispositive.⁹ Section 251(b)(3) provides that LECs have

⁷ See Petition, pp. 6-9.

⁸ Petition, p. 8.

⁹ One need look no further than other subsections of § 251 to see that the Act's headings and subheadings do not necessarily encompass the entire scope of the provisions to which they apply. For example, § 251(e) is captioned "numbering administration," but refers to, *inter alia*, cost recovery for number portability.

[t]he duty to provide dialing parity to competing providers of telephone exchange service and telephone toll service, and the duty to permit all such providers to have nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing

The Act thus expressly makes LECs' obligation to provide access to DA data a separate "duty," not merely a requirement intended to facilitate dialing parity.¹⁰ Indeed, it is difficult to imagine what access to telephone numbers, operator services, directory assistance, and directory listing have to do with dialing parity, which the Act defines as the ability to route calls without using an access code.¹¹

Nor does the UNE Remand Order provide any support for SBC's claims that the Commission should "reconcile" that order's findings with its SLI Order.¹² To the contrary, the UNE Remand Order repeatedly makes clear that, although directory assistance services are no longer in all cases a UNE, the Commission relies on the availability of directory assistance data on nondiscriminatory terms under § 251(b)(3) to ensure that meaningful directory assistance competition is possible.¹³ Far from requiring

¹⁰ See Second Local Competition Order, ¶ 12 ("Section 251(b)(3) also requires all LECs to permit competing providers of telephone exchange service and toll service 'nondiscriminatory access to telephone numbers, operator services, directory assistance and directory listings.'" (emphasis added).

¹¹ See 47 U.S.C. § 153(15).

¹² See Petition, p. 6.

¹³ See, e.g., UNE Remand Order, ¶ 457 ("Requesting carriers, however, have the ability, under section 251(b)(3), to obtain nondiscriminatory access to the incumbent LEC's, or any other competing LEC's, databases used in the provision of OS/DA."); id., ¶ 464 (relying on "ability to obtain nondiscriminatory access to ... directory assistance under section 251(b)(3)" as a ground for removing DA services from list of UNEs).

the Commission to amend the SLI Order, the UNE Remand Order expressly affirms that § 251(b)(3) requires LECs to make DA data available to their competitors:

[I]ncumbent LECs need not provide access to OS/DA as an unbundled network element. All LECs, however, must continue to provide their competitors with nondiscriminatory access to their OS/DA, pursuant to section 251(b), as implemented by the Commission.¹⁴

There is thus no merit to SBC's suggestion that the Commission's actions in the SLI Order were in any way inconsistent with those it took a mere six days later when it adopted the UNE Remand Order.

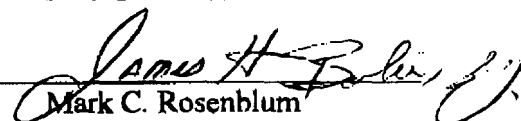
¹⁴ Id., ¶ 442.

CONCLUSION

For the reasons stated above, the Commission should deny SBC's petition for reconsideration of the SLI Order to the extent it is inconsistent with the instant opposition.

Respectfully submitted,

AT&T CORP.

By 
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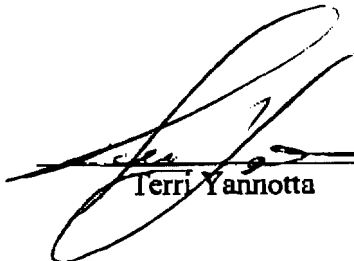
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January 11, 2000

CERTIFICATE OF SERVICE

I, Terri Yannotta, do hereby certify that on this 11th day of January, 2000, a copy of the foregoing "Opposition of AT&T Corp." was served by U.S. first-class mail, postage prepaid to the parties listed on the attached service list.



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January 11, 2000

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